

**LOUISIANA BOARD OF ETHICS
STATE OF LOUISIANA**

IN THE MATTER OF

BOBBY JELKS

BOARD DOCKET NO.2015-972

DECLARATORY OPINION

On September 2, 2015, Bobby Jelks submitted a request for a declaratory opinion as to the proper construction and interpretation of the time limits for the receipt of contributions in connection with a general election as provided in Section 1505.2H of the Campaign Finance Disclosure Act (“CFDA”). By Act 608 of the 2012 Regular Legislative Session, La. R.S. 42:1141.6 provides that upon application of a public servant, other person, or agency, the Louisiana Board of Ethics (“Board”) may declare rights, status, and other legal relations established by the provisions of the Code of Governmental Ethics or by any other law within its jurisdiction or under opinions issued by the Board, either before or after there has been a breach thereof.

A hearing was held before the Board on Mr. Jelks’ Petition for Declaratory Opinion on November 20, 2015. Gray Sexton and Alesia M. Ardoin appeared as counsel for Bobby Jelks. Jennifer Land and Kathleen Allen appeared as counsel for the Board.

I. FACTS

1.

Bobby Jelks, a resident of the State of Louisiana, wishes to participate in state elections by making contributions to candidates that will potentially be involved in both a primary election and a general election.

2.

The CFDA, as set forth in Chapter 11 of Title 18 of the Louisiana Revised Statutes of 1950, was enacted to provide public disclosure of the financing of election campaigns and to regulate certain campaign practices, including establishing contribution limits for contributions made to candidates or the principal campaign committee and any subsidiary committee of a candidate.

3.

In accordance with La. R.S. 18:1511.1A, the Board functions as the Supervisory Committee on Campaign Finance Disclosure to administer and enforce the provisions of the CFDA and the rules, regulations, and orders issued thereunder.

4.

La. R.S. 18:1505.2H provides contribution limits that apply to each person per each election cycle.

5.

La. R.S. 18:1505.2H(3)(a) states: For purposes of this Subsection, a primary election and a general election shall constitute two separate elections. For purposes of this Subsection, for

candidates and committees that participate in a general election, the reporting period for the general election shall be deemed to begin the day following the primary election.

6.

Thus, a campaign contributor can make a contribution up to the contribution limit to a candidate for the primary election and a second contribution up to the contribution limit to the candidate for the general election.

7.

In Ethics Board Docket No. 1994-025, the Board concluded that contributions apply on a per election basis and, based on La. R.S. 18:1505.2H(3)(a), the time period for making a contribution in the general election begins the day following the primary election.

8.

In Ethics Board Docket No. 1995-052, the Board concluded that a campaign contribution is received at the time a contribution check is received, regardless of the time of deposit.

II. ISSUE

The issue presented by Jelks' Petition for Declaratory Opinion is whether the Board has correctly interpreted the time limits for the receipt of contributions in connection with a general election as provided in Section 1505.2H(3)(a) of the CFDA, as set forth in Ethics Board Docket No. 1994-

Jelks argues that the CFDA does not state when a candidate may solicit and accept contributions for a general election and that La. R.S. 18:1505.2H(3) merely provides that the reporting period for the general election begins the day following the primary election. Jelks

states that the Board's interpretation of La. R.S. 1505.2H(3) is incorrect and disserves the public policies that the CFDA is intended to promote.

The Board argues that its interpretation of La. R.S. 18:1505.2H(3) is correct and that the time period for making a contribution in the general election begins the day following the primary election.

III. LAW

La. R.S. 18:1483(8) provides, in relevant part:

“As used in this Chapter, the following terms shall have the following meanings herein given to each unless the context clearly indicates otherwise:

(8) “Election” means any primary, general, or special election held, pursuant to the laws of this state or a parish or municipal charter or ordinance or a court order, to choose a public officer or nominee. For purposes of this Chapter, a primary election and a general election for a particular office shall constitute one election.”

La. R.S. 18:1495.5.5B(2) provides for the contents of reports as follows:

“B. Each report required to be in conformity with this Section shall contain the following information:

(2) The total of all contributions received and accepted by the candidate during the reporting period.”

La. R.S. 18:1505.dH provides, in relevant part:

“H.(1)(a) The following contribution limits are established for contributions made to candidates or the principal campaign committee and any subsidiary committee of a candidate for the following offices:

(i) Major office – five thousand dollars.

(ii) District office – two thousand five hundred dollars.

(iii) Other office – one thousand dollars.

(b) The provisions of this Paragraph shall not apply to contributions made to a candidate or the principal or any subsidiary committee of a candidate by a recognized political party or any committee thereof.

(c) Notwithstanding the provisions of Subparagraph (a), the contribution limit for contributions made to an unsuccessful major office candidate, or the principal campaign committee and any subsidiary committee of such unsuccessful candidate, who does not participate in the general election and for the time period for which such candidate has a deficit for expenditures made through the day of the primary election, shall be ten thousand dollars.

(3)(a) For purposes of this Subsection, a primary election and a general election shall constitute two separate elections. For purposes of this Subsection, for candidates and committees that participate in a general election, the reporting period for the general election shall be deemed to begin the day following the primary election.

(b) No person shall make a loan, transfer of funds, or contribution... in the aggregate for all reporting periods for an election, as defined in this Paragraph, including reporting periods for any supplemental reports required, in excess of the contribution limits established in Paragraphs (1) and (2) of this Subsection, except as otherwise specifically provided in this Subsection.

(c) No candidate including, his principal campaign committee and any subsidiary committee thereof, shall accept from the same contributor a loan, transfer of funds, or contribution... in the aggregate for all reporting periods of an election, as defined in this Paragraph, including reporting periods for any supplemental reports, in excess of the contribution limits established in Paragraph (1) of this Subsection, except as otherwise specifically provided in this Subsection, and except that the provisions of Paragraph (2) shall apply for contributions accepted from a political committee. The provisions of this Subparagraph shall not apply to recognized political parties and their committees.”

IV. OPINION

The Louisiana Board of Ethics, by a vote of nine yeas to two nays, concluded that the Board’s interpretation of La. R.S. 18:1505.2H(3)(a), as set forth in Ethics Board Docket No. 1994-025, is correct, that contribution limits apply on a per election basis, and the time period for making and/or receiving a contribution for the general election begins the day following the primary election.

BY ORDER OF THE BOARD, this _____ day of _____, 2016.

Blake Monroe, Chairman

Julia E. Blewer, Vice Chairman

Charles Emile Bruneau, Jr.

Jean M. Ingrassia

William J. Larzelere, Jr.

Very Rev. José I. Lavastida

Dr. Louis W. Leggio

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C. Wade Shaddock, Jr.

Ashley K. Shelton